

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MORGAN GARTNER, INDIVIDUALLY
AND AS NEXT FRIEND OF E.G.,
A MINOR CHILD

V.

AMAZON.COM, INC., AND HU XI JIE

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CIVIL ACTION NO. 4:18-CV-02242

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND
ORDER GRANTING SUMMARY JUDGMENT**

The Defendant Amazon.com, Inc.'s Motion for Summary Judgment, together with the Plaintiff's Response, having been considered by the Court, the Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

1. Amazon.com, Inc. is an internet service provider which operates an online marketplace for sellers to offer products and buyers to purchase them.
2. USA Shopping 7693 sold the remote control involved in the incident made the basis of Plaintiff's Complaint.
3. USA Shopping 7693 provided the content of the product offer for the remote.
4. Amazon.com, Inc. was not the publisher of the content of the product offer for the remote.
5. Amazon.com, Inc. did not design, manufacture, or sell the remote control involved in the incident made the basis of Plaintiff's Complaint.
6. Defendant HU XI JIE has not appeared and is not before this Court.

CONCLUSIONS OF LAW:

1. Amazon.com, Inc. did not design, manufacture, or sell the remote control involved in the incident made the basis of Plaintiff's Complaint.
2. Amazon.com, Inc. owed no duty to Plaintiff in conjunction with any sale of the remote.
3. Amazon.com, Inc. is immune from liability, as alleged in Plaintiff's Complaint, by 47 U.S.C. Section 230, also known as the Communications Decency Act.

Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED that Defendant Amazon.com, Inc.'s Motion for Summary Judgment is GRANTED, and it is further ORDERED that:

1. Plaintiff Morgan McMillian (previously identified as Morgan Gartner), Individually and as Next Friend of E.G., a minor child, have and recover nothing of and from Defendant Amazon.com, Inc.
2. All relief requested by Plaintiff is hereby denied.
3. As Defendant HU XI JIE is not before this Court, this is a final judgment, disposing of all claims and remaining parties, and is appealable.
4. Costs of court are hereby taxed against the party incurring same.

Signed this _____ day of _____, 2019

Judge Presiding